IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WP(C).No. 29676 of 2006(G)

PETITIONER:

A.V. DEVASIA, AREEKATTIL HOUSE,
VADAKKEKARA, VEROOR, CHANGANASSERY, KOTTAYAM DIST.
NOW RESIDING AT 79 ROUDN TREE DR, MESQUITE,
TEXAS-75150, REP. BYPOWER OF ATTORNEY HOLDER
VARGHESE P.T., S/O.OUSEPTH THOMAS,PRAKUZHIYIL
HOUSE, MADAPPALLY P.O., KOTTAYAM DISTRICT.

BY ADV. SRI.JOSE JOSEPH (MANNAR)

RESPONDENTS:

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1. UNION OF INDIA, REPRESENTED BY THE
SECRETARY TO THE MINISTRY OF DEFENCE
SOUTH BLOCK, NEW DELHI-110 011.

2. THE OFFICER IN CHARGE,
CENTRAL DEFENCE ACCOUNTS (PENSION)
ALLAHABAD.

3. THE OFFICER IN CHARGE,
PENSION GROUP, AMC RECORDS,
LUCKNOW-226 002.

4. THE OFFICER IN CHARGE,
DEFENCE PENSION DISBURSING OFFICE,
KOTTAYAM DIST., KERALA.

BY ADV. SRI.MAJNU KOMATH, ADDL.CGSC
SRI.JOHN VARGHESE, ASST.SG.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE PENSION CERTIFICATE OF THE PETITIONER.

EXT.P2: COPY OF THE CERTIFICATE OF NATURALISATION DTD.24.6.2000.

EXT.P3: COPY OF THE LETTER DTD. 26.11.2002.

EXT.P4: COPY OF THE LETTER DTD. 30.03.2005.

EXT.P5: COPY OF THE NATIONALITY CERTIFICATE AND LIFE CERTIFICATE DTD.30.03.2005.

RESPONDENT'S EXHIBITS:

EXT..R4 (A): COPY OF THE CIRCULAR NO.106 DATED 30.11.2004 ISSUED BY UNDER SECRETARY TO THE GOVERNMENT OF INDIA.

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BKN // TRUE COPY//

K.BALAKRISHNAN NAIR,J.

WP(C)NO.29676 OF 2006-G

Judgment

The petitioner was a military pensioner. While so, he migrated to U.S.A. and settled there. It is submitted that he is a U.S.citizen w.e.f. 24.06.2000. In view of the said position, the payment of pension to him was discontinued. So, this Writ Petition was filed, seeking the following reliefs :

> *"i. issue a writ of mandamus or any other appropriate writ, order or direction, commanding the respondents to continue to pay the pension to the petitioner after deducting the pension he received from June 2000.*
>
> *ii. grant interest to the amount and such other reliefs as may be prayed for and as the Court may deem fit to grant."*

The respondents have filed a statement, in which it is submitted as follows :

> *"The 4th respondent had asked the petitioner to comply the procedural requirements enabling to consider his request to restore the payment of pension. As per rule, on change of nationality, a pensioner has to execute a Power of Attorney in favour of a scheduled bank of his choice as his agent to claim and receive pension from his PDA. The petitioner should have applied to the PDA on his becoming a US citizen,intimating the fact so as to enable the PDA to obtain sanction of the Pension Sanction Authority for continued payment of pension to the petitioner and also the pensioner, ie.,*

the petitioner had to submit arrear claim on IAF (CDA) 651, Life Certificate/Pre-receipted bill from his appointed Bank on IAFA 409 and Nationality Certificate etc.

It is submitted that as per the Principal Controller of Defence Accounts (Pension) Allahabad circular No.106 dated 30.11.2004, which is produced and marked as Exhibit R-4(A), pension may be restored in respect of the petitioner by the Defence Pension Disbursement Office, Kottayam after obtaining the requisite documents from him. On receipt of the documents as submitted herein above, necessary action to get the time-bar sanction will be obtained from the competent authority and the arrears of pension shall be paid accordingly. As the petitioner had changed his nationality with effect from 24.06.2000, the Defence Pension Disbursement Office can restore the pension and release the arrears only on production of the documents mentioned in Ext.R-4(A).

As submitted herein above, unless the time-bar sanction is accorded by the competent authority, neither the arrears of pension nor the recommencement of payment of pension in respect of the petitioner could be initiated by the Defence Pension Disbursement Office, Kottayam."

The above submissions will substantially redress the grievance of the petitioner. The petitioner shall produce the documents mentioned in Ext.R4(A) and in that event, the

competent authority among the respondents will take consequential action to restore the pension and pay the same to him without delay. If there is any defect in the documents produced by the petitioner, he shall be alerted of the same and shall be given an opportunity to cure the same. In other words, the restoration of pension shall not be delayed on technical grounds.

The Writ Petition is disposed of as above.

19.06.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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